

## General Terms and Conditions of Pilotage and other Services

- 1.1. This is a statement of the terms and conditions according to which DANISH MARITIME SERVICE P/S - hereinafter referred to as "DMS" - (sometimes acting in its secondary name DANISH PILOT SERVICE P/S) will perform pilotage, and (sometimes acting in its secondary name FREMOCO P/S) will perform mooring operations and related maritime services.
- 1.2. These terms and conditions apply to all offers, quotations, orders, agreements, services and all subsequent contracts of whatever nature, except where otherwise is expressly agreed in writing by DMS.
- 1.3. General trading conditions of another party will not apply, unless expressly accepted in writing by DMS.
- 1.4. In case, for whatever reason, one or more of the (sub) clauses of these general conditions are invalid, the other (sub) clauses hereof will remain valid and are binding upon the parties.

## 2. DEFINITIONS

- 2.1. Throughout this document the following definitions apply:
- 2.2. "**Client**" means the Vessel serviced and jointly and severally her master, Owner, managers/operators, port agents or disponent owners or any other party requesting offers or quotations for or ordering Services and any party on whose behalf the said offers, quotations, orders and subsequent agreements or contracts have been made;  
"**Owner**" means the registered Owner or Bareboat Charterer of the Vessel; and  
"**Services**" means all services contracted between any Client and DMS whereby pilots employed by DMS perform or are to perform piloting and/or other employees of DMS perform or are to perform mooring or related services for such Vessel or Vessels.  
"**Vessel**" means the vessel, ship, barge or other floating unit that receives the Services.

### **3. OFFERS, QUOTATIONS AND PRICES**

- 3.1. An agreement for Services is only binding on DMS upon its written confirmation thereof.
- 3.2. All prices and all tariffs are exclusive of VAT and are quoted in Danish Kroner (DKK) unless otherwise specifically stated.
- 3.3. If the party requesting the Services is not the Owner of the Vessel, DMS is entitled to insist as a precondition of rendering the agreed Services that a payment guaranty is provided by the Owner. DMS has the right to cancel any agreement with the party requesting such Services if the payment guaranty is not received upon DMS request to the Owner.
- 3.4. The party ordering the Services has no legal right of cancellation of such Services.

### **4. DELIVERY**

- 4.1. The time of rendering the Services as confirmed by DMS in advance, has been provided as an approximate time, unless otherwise specifically agreed in writing between the Client and DMS.
- 4.2. The time of delivery of the Services will only be binding upon DMS when all information, necessary for DMS to comply with its obligations hereunder, has been properly delivered to DMS in reasonable time before rendering such Services.
- 4.3. The Client shall ensure that the Vessel provides a free and safely accessible embarkation and disembarkation for the pilot(s) and other personnel providing the Services on behalf of DMS and that all appropriate assistance is rendered in connection therewith.

### **5. PAYMENT**

- 5.1. Payment must be made in full without set-off, counterclaim or deduction, free of bank charges to the bank account indicated by DMS on the respective invoice(s) or as otherwise directed by DMS.

- 5.2. Any delay in payment entitles DMS to interest at presently the rate of 1 (one) per cent per month or any part thereof without prejudice to any other rights or remedies available to DMS.

## **6. CLAIMS**

- 6.1. Complaints concerning the Services must be submitted to DMS in writing as soon as possible and in no event later than 15 (fifteen) days after such Services being performed or being due for performance failing which the rights to complain or claim compensation of whatever nature are deemed to have been waived and barred for all times.
- 6.2. The Client shall make payment in full and fulfil all other obligations in accordance with the terms hereof, whether or not they have any claims or complaints.

## **7. LIABILITY OF DMS AND LIMITATION THEREOF**

- 7.1. DMS is liable under the provisions of Danish law concerning compensation for errors and negligence in the performance by its employees (and/or subcontractors) of Services, it being noted that for all pilotage undertaken by DMS such Services are granted only as professional advice by the pilot in question to the master of the Vessel. Accordingly, the master of the Vessel will at all times remain in command thereof and remain responsible for such Vessel.
- 7.2. Should DMS be held liable according to clause 7.1 above, DMS has no liability for indirect loss of any kind, loss of profits, loss suffered by third parties or any consequential loss or losses. Moreover for any specific task of Services rendered or to be rendered, the total liability of DMS and/or its pilot(s) or other personnel will in no event exceed an amount equal to 25 times the fee paid or payable to DMS for rendering such Services or a total amount of DKK 5,000,000.00, whatever thereof being the lesser sum.
- 7.3. No pilot or other employee of DMS or agents (including independent (sub) contractors from time to time employed by DMS) is liable to the Client for loss, damage or delay, while acting in the course of or in connection with its employment and/or agency for DMS. Without prejudice to the above, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence or immunity of whatever nature applicable to DMS or to which it is entitled hereunder will also be available and will

extend to protect every such pilot or other employee, servant, representative or agent of DMS acting as aforesaid.

## **8. LIABILITY OF CLIENT - HOLD HARMLESS**

- 8.1. The Client is liable towards DMS and herewith undertakes to indemnify DMS for any damages and/or costs suffered or otherwise incurred on DMS due to a breach of contract and/or fault or negligence of the Client, its agents, servants, (sub) contractors, representatives, employees and the officers, crews and/or other people whether or not onboard the respective Vessel(s). The Client furthermore undertakes to hold DMS harmless in case any third party institutes a claim of whatever nature against DMS with direct or indirect relation to any agreement regulated by these terms and conditions. Third party means any other (physical or legal) person/company than the Client.

## **9. FORCE MAJEURE**

- 9.1. DMS is not responsible for any loss, damage, delay or failure in performance of Services resulting from the perils of the sea or any other act of God, or the place for performing the Services being affected by war, civil commotion, riot, quarantine, strike, stoppage, lock-out, arrest, restraint of princes, rulers and people, or any other event whatsoever which cannot be avoided or guided against by the exercise of due diligence.

## **10. LAW AND JURISDICTION**

- 10.1. For all Services performed or to be performed, the laws of Denmark apply and all disputes arising out of or in connection with such Services are subject to the jurisdiction of the Maritime and Commercial Court in Copenhagen (*Sø- og Handelsretten i København*).
- 10.2. Notwithstanding the forgoing, it is further agreed for the sole benefit of DMS that DMS has the right to proceed against the Client or any third party or the Vessel in such jurisdiction as DMS in its sole discretion deems fit inter alia for the purpose of securing payment of any amount to DMS from the Client or the Owner (pursuant to a payment guaranty). In such circumstances the proceedings are governed by the law (substantive and procedural) of such jurisdiction.